

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

RICHARD GALLEGOS

Plaintiff

UNITED STATES OF AMERICA

Defendant

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Civil Action No. _____

**PLAINTIFF'S ORIGINAL COMPLAINT
UNDER THE FEDERAL TORT CLAIMS ACT**

TO THE HONORABLE COURT:

RICHARD GALLEGOS, Plaintiff, files this, his Original Complaint under the Federal Tort Claims Act complaining of the United States Government, and for cause of actions shows the following:

**I.
Jurisdiction, Venue, and Conditions Precedent**

1. Plaintiff is an individual residing in San Antonio, Bexar County, Texas, which is within the Western District of Texas.
2. The claims brought herein are brought against the United States pursuant to the Federal Tort Claims Act (28 U.S.C. § 2671, et seq.), for money damages as compensation for loss of property and personal injuries proximately caused by the negligence, wrongful acts, and omissions of an employee of the United States Government while acting within the scope of his office and employment, under circumstances where the United States, if a private person, would be liable to Plaintiff in accordance with the laws of the State of Texas.

3. Venue is proper in that all, or a substantial part of the acts and omission forming the basis of these claims occurred in the Western District of Texas as they arose out of a motor vehicle collision occurring within the District.
4. Plaintiff has fully complied with the provisions of 28 U.S.C. §2675 of the Federal Tort Claims Act.
5. This suit has been timely filed in that Plaintiff timely served notice of his claim with the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. On June 30, 2020, the Office of the Chief Counsel for the Bureau issued a notice to Plaintiff that his claim was granted in part and denied in part. This Complaint is being filed within six (6) months of the issuance of such notice.
6. At the filing of this Complaint, Plaintiff is seeking a summons issued to the United States Government to be served upon the United States Attorney for the Western District of Texas via certified mail directed to the civil-process clerk at the United States Attorney pursuant to Rule 4(i)(1)(A)(ii) of the Federal Rules of Civil Procedure with a copy sent to the Attorney General of the United States in accordance with Rule 4(1)(B) of FRCP.

II. Events Forming the Basis of Claims

1. On or about August 20, 2019, Plaintiff was operating his 2015 GMC Sierra pickup truck and travelling southbound on State Highway 16 in the middle lane of traffic. As Plaintiff was going through the intersection of SH 16 and Wurzbach Road, on a green light, a vehicle operated by Bryan Collier was waiting for the traffic light to turn green for him, entered the intersection on a red light causing a collision with Plaintiff's vehicle.

2. The said Bryan Collier was an employee of the Bureau of Alcohol, Tobacco, Firearms and Explosives and at all times material hereto, was working and acting within the course and scope of his employment with the Government.
3. The vehicle operated by the said Bryan Collier was owned by the Government.
4. At the scene of the subject collision, the said Bryan Collier told the investigating police officer that while in his vehicle and while waiting for the light to turn green, a folder inside the vehicle fell and accidentally triggered the auxiliary lights on the vehicle and he attempted to retrieve the folder and turn off the auxiliary lights. While doing so, he thought the light had turned green, so he moved his vehicle forward into the intersection thereby causing the collision.
5. The collision in question was proximately caused by the negligent acts and omissions of the said Bryan Collier in the following respects:
 - a. By failing to maintain a proper lookout;
 - b. By failing to yield the right-of-way to Plaintiff's vehicle in accordance with Texas traffic laws;
 - c. In entering the intersection in question when it was not clear or safe to do so;
 - d. In disregarding the traffic control light which was red and directed the said Bryan Collier to remain at rest and wait for the light to turn green.
6. The said Bryan Collier violated the Texas Transportation Code §§544.04 and 544.007(d) in that he failed to comply and obey the traffic control device which directed him not to enter the intersection in question until the light turned green.
7. The said Bryan Collier violated the Texas Transportation Code §545.151 in that he failed to yield the right of way to traffic travelling on SH 16 with the green light,

including Plaintiff's vehicle, and such violations were the cause of the collision in question and the injuries and damages suffered by Plaintiff.

8. The said Bryan Collier's acts and omissions described above constituted actionable negligence under the common laws of the State of Texas and such negligence was a proximate cause of the collision in question and the injuries and damages suffered by Plaintiff
9. As the said Bryan Collier violated the Texas Transportation Code and the common laws of the State of Texas, the United States Government is liable for all damages caused by such violations, acts and omissions under 28 U.S.C. §§ 2672 and 2674.

III. Damages

Plaintiff has suffered the following injuries for which he seeks full compensation under the law:

- a. Reasonable medical expenses incurred for the treatment of his bodily injuries in the past;
- b. Reasonable medical expenses which in all likelihood he will incur in the future;
- c. Physical pain which he has suffered in the past due to his bodily injuries;
- d. Physical pain which he will likely suffer in the future due to his bodily injuries;
- e. Mental anguish which he has suffered in the past due to his bodily injuries;
- f. Mental anguish which he will likely suffer in the future due to his bodily injuries;
- g. Physical impairment which he has suffered in the past due to his bodily injuries;
- h. Physical impairment which he will likely suffer in the future due to his bodily injuries;
- i. Property damages which he sustained due to the collision in question.

**IV.
Prayer for Relief**

WHEREFORE, Plaintiff is entitled to damages from the United States Government, and he does hereby pray that judgment be entered in his favor and against the United States Government as follows:

1. Money damages in the amount of \$167,209.32;
2. Costs of suit;
3. Such other and additional relief at law or in equity that this Court may deem appropriate or proper.

Respectfully submitted,

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